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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **C.O. (COMM.IPD-TM) 146/2021**

SOLERA HOLDING INC

..... Petitioner

Through: Mr. Manish Kumar Mishra, Ms.
Akansha Singh, Ms. Saloni Kashiwal
and Mr. Saransh Saini, Advs.

versus

SOLERA NETWORKS INC AND ANR

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

16.04.2024

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1. This rectification petition has been filed seeking removal of respondent No.1's mark 'SOLERA NETWORKS' registered under Class 9 No.2443745. The said mark was applied for by respondent No.1 on 17th December, 2012 claiming user from 15th February, 2005 and was granted on 22nd May, 2015.
2. The matter was originally filed before the Intellectual Property Appellate Board (IPAB) and was since transferred to this Court pursuant to the abolition of the IPAB in 2021. Since 2022 when the matter has been on board of this Court, notices have been issued to respondent No.1 no one has appeared.
3. Further, Court Notice was also issued to the Trade Mark Attorneys appearing on behalf of the defendant before the Registrar of Trade Marks, however, they have also not reverted since 28th August, 2023.
4. Accordingly, the defendant shall be proceeded *ex parte*.



5. The petitioner had applied for registration of the mark 'SOLERA' on 14th December, 2015 in a multi class application, initially on a proposed to use basis. The petitioner has since been granted registration on 02nd June, 2021.

6. In the meantime, counsel for the petitioner also draws attention to the status of the impugned mark from the Trade Mark Registry's record which has been handed up to the Court and reproduced hereunder. It shows that the impugned mark was valid upto 17th December, 2022 and has since not been renewed. Though, it has not been removed from the register, it seems that respondent No.1 is not interested in claiming proprietorship in the said mark.



(NOT FOR LEGAL USE)	
As on Date : 16/04/2024	View Registration Certificate
Status : Registered	View TM Application / View Examination Report
Alert : Trade mark is likely to be removed due to non filing of Renewal request within prescribed time limit in case of any discrepancy contact respective TM Registry.	
TM Application No.	2443745
Class	9
Date of Application	17/12/2012
Appropriate Office	DELHI
State	STATE NOT SPECIFIED
Country	United States of America
Filing Mode	Branch Office
TM Applied For	SOLERA NETWORKS
TM Category	TRADE MARK
Trade Mark Type	WORD
User Detail	15/02/2005
Certificate Detail	Certificate No. 1211030 Dated : 22/05/2013
Valid upto/ Renewed upto	17/12/2022
Proprietor name	(1) SOLERA NETWORKS, INC. Body Incorporate
Proprietor Address	10713 SOUTH JORDAN GATEWAY SUITE 100 SOUTH JARDAN UT 84095 USA
Email Id	
Agent name	ANAND AND ANAND [295]
Agent Address	THE ACME COMPANY B-41, NIZAMUDDIN EAST, NEW DELHI - 110 013.
Goods & Service Details	[CLASS : 9] COMPUTER HARDWARE AND SOFTWARE FOR NETWORK PACKET FLOW AND NETWORK ACTIVITY IDENTIFICATION, ANALYSIS, INDEXING, CORRELATION, SEARCHING, FILTERING AND RECONSTRUCTION, DISPLAYING IN AN INTERFACE AND FOR VIEWING NETWORK COMMUNICATIONS; COMPUTER HARDWARE AND SOFTWARE FOR REPORTING, TRACKING, AND MONITORING NETWORK TRAFFIC INCLUDING EMAILS, INSTANT MESSAGES, WEB PAGE ACCESSSES, VOICE OVER INTERNET PROTOCOL, FILE TRANSFER PROTOCOL AND OTHER COMMUNICATION WITH OR WITHOUT AN ATTACHMENT; COMPUTER HARDWARE AND SOFTWARE FOR INDEXING THE RECORD OF CAPTURED AND STORED PACKETS; COMPUTER HARDWARE AND SOFTWARE ALLOWING MEMBER OF ORGANIZATION TO LOCATE AND RECONSTRUCT SPECIFIC COMMUNICATION FLOWS OR NETWORK ACTIVITIES FROM NETWORK TRAFFIC, ALL OF THE ABOVE IN THE FIELD OF NETWORK FORENSICS AND NETWORK SECURITY ANALYTICS.
Restrictions	THIS IS SUBJECT TO ASSOCIATION WITH REGISTERED/PENDING REGISTRATION NO.1795016
Associated Trademarks	1795016
Publication Details	Published in Journal No. : 1860-0 Dated : 29/09/2014

7. Further, counsel for the petitioner points out to an investigation report dated 21st December, 2018 which was filed with the original petition to ascertain if the impugned mark had been used in respect of computer related or electronic goods in India since 2005 by respondent No.1. Investigation report revealed that there was no one available on that address and a different company, namely, TaraSpan Solutions Pvt. Ltd. was operating from the address in Bavdhan, Pune. A market search also found that there was no use of the said mark.

8. Considering these facts and circumstances and that assertions of the



petitioner stay un rebutted, this Court considers it appropriate to grant relief to the petitioner, particularly when their mark stands registered and the impugned mark has expired and not renewed by respondent No.1.

9. In these facts and circumstances, it is directed that the register be rectified and the impugned mark No. 2443745 is removed from the Trade Mark Register.

10. The Trade Mark Registry website be updated accordingly.

11. Registry to supply a copy of the present order to Trade Mark Registry at llc-ipo@gov.in for compliance.

12. Petition is disposed of. Pending applications, if any, also stand disposed of as being infructuous.

13. Order be uploaded on the website of this Court.

ANISH DAYAL, J

APRIL 16, 2024/MK/ig